

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TISHAWN WOODS, :
Petitioner, :
: **ORDER**
v. :
: 23 CV 11002 (VB)
UNITED STATES OF AMERICA, :
Respondent. :
S1 21 CR 372 (VB)
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In an undated letter received by the Court on March 20, 2024, petitioner Tishawn Woods requests that the Court “strike the premature Section 2255 from the record.” (Doc. #88 in case no. 21-cr-372). The Court construes Woods’s request as an application to voluntarily dismiss his motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence (the “Section 2255 motion”), which was filed on December 18, 2023.

Petitioner’s application to voluntarily dismiss the Section 2255 motion is GRANTED.

Because Woods has an appeal of his conviction currently pending before the U.S. Court of Appeals for the Second Circuit, as a matter of judicial economy, this Court should not adjudicate the Section 2255 motion while the direct appeal is pending. See United States v. Outen, 286 F.3d 622, 632 (2d Cir. 2002); United States v. Rodgers, 101 F.3d 247, 251 (2d Cir. 1996). Indeed, petitioner has asked this Court to “strike” the Section 2255 motion as “premature.”

Accordingly, plaintiff’s request is GRANTED and the Section 2255 motion is DISMISSED WITHOUT PREJUDICE. Petitioner may, if he wishes, refile his Section 2255 motion after issuance of the Second Circuit’s mandate.

The Clerk is instructed to close case no. 23-cv-10022 and mail a copy of this Order to petitioner at the address on the docket of that case.

Dated: March 21, 2024
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge